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USA Cycling, Inc. and Linda Buffetti

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12 CORNEALIUS LOPES.

13 Plaintiff,

14

VS.

15 | FREEMONT FREEWHEELER, et al.

16 | Defendants.

Case No.: C 07-6213 PJH

**[PROPOSED] ORDER GRANTING
DEFENDANTS USA CYCLING, INC.'S
AND LINDA BUFFETTI'S MOTION
TO DISMISS THE COMPLAINT
PURSUANT TO FRCP RULE 12(b)(5)(6)**

Date: June 25, 2008
Time: 9:00 a.m.
Courtroom: 3
Hon. Phyllis J. Hamilton
Complaint Filed: November 2, 2007

Defendants USA CYCLING, INC's and LINDA BUFFETTI'S Motion to Dismiss
this action as to them came on regularly for hearing on Wednesday, June 25, 2008 in the
above-entitled court. The Honorable Phyllis J. Hamilton presiding. Defendants USA
Cycling, Inc. and Linda Buffetti were represented by their attorney David Ian Dalby of
Hinshaw & Culbertson LLP. Plaintiff Cornealious Lopes represented himself.

26 After considering the papers in support of and opposing defendants' motion and
27 those matters of which defendants requested judicial notice and the oral argument at the

1 hearing, and Good Cause appearing, defendants' motion to dismiss is granted. Plaintiff's
2 summons and complaint were never properly or timely served on USA Cycling, Inc. The
3 only count alleged against USA Cycling, Inc., Count Eight, is barred by the applicable
4 statute of limitations and fails to state facts upon which relief can be granted.

5 As to Linda Buffetti, Count Two of the complaint fails to state facts upon which
6 relief can be granted and Count Eighteen is barred by the applicable statute of limitations
7 and fails to state facts upon which relief can be granted.

8 Accordingly, plaintiff's complaint is dismissed as to defendants USA Cycling, Inc.
9 and Linda Buffetti.

10 DATED: June ____ , 2008

11 Phyllis J. Hamilton
United States District Judge

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